

1 Edward Patrick Swan, Jr. (State Bar No. 89429)  
2 Ashley E. Goff (State Bar No. 299737)  
3 pswan@jonesday.com  
4 agoff@jonesday.com  
5 JONES DAY  
6 4655 Executive Drive, Suite 1500  
7 San Diego, CA 92121-3134  
8 Telephone: +1.858.703.3132  
9 Facsimile: +1.844.345.3178

6 Jeffrey J. Jones (admitted *pro hac vice*)  
7 Marjorie P. Duffy (admitted *pro hac vice*)  
8 Casteel Borsay (admitted *pro hac vice*)  
9 jjjones@jonesday.com  
10 mpduffy@jonesday.com  
11 cborsay@jonesday.com  
12 JONES DAY  
13 325 John H. McConnell Boulevard, Suite 600  
14 Columbus, OH 43215  
15 Telephone: +1.614.469.3939  
16 Facsimile: +1.614.461.4198

13 Attorneys for Defendants  
14 THE SCOTTS MIRACLE-GRO COMPANY  
AND THE SCOTTS COMPANY LLC

[Additional counsel appear on signature page]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

19      **In re MORNING SONG BIRD**  
20      **FOOD LITIGATION**

| Lead Case No. 3:12-cv-01592-JAH-AGS

## CLASS ACTION

## JOINT NOTICE OF SETTLEMENT

23 || This Document Relates To:

## ALL ACTIONS.

1                   **PLEASE TAKE NOTICE** that Plaintiffs Laura Cyphert, Milt Cyphert, Ellen  
2 Larson and David Kirby, and Defendants The Scotts Miracle-Gro Company, The  
3 Scotts Company LLC, and James Hagedorn have reached an agreement in principle  
4 on all material terms required to settle all claims in the above captioned matter, and  
5 are in the process of finalizing and executing the agreed-upon written settlement  
6 agreement. Pursuant to the Court's Order dated August 16, 2018 (Dkt. 503), the  
7 Parties shall file a motion for preliminary approval of the class settlement by  
8 November 16, 2018.

9                   Dated: August 20, 2018

10                   Respectfully submitted,

11                   JONES DAY

12                   */s/ Edward Patrick Swan, Jr.*

13                   Edward Patrick Swan, Jr.

14                   Jeffrey J. Jones

15                   Marjorie P. Duffy

16                   Casteel Borsay

17                   Ashley E. Goff

18                   Counsel for Defendants THE SCOTTS  
19                   MIRACLE-GRO COMPANY AND  
20                   THE SCOTTS COMPANY LLC

21                   Dated: August 20, 2018

22                   KIRKLAND & ELLIS LLP

23                   */s/ Mark R. Filip*

24                   Mark Holscher

25                   Sierra Elizabeth

26                   Yosef Mahmood

27                   Allie Ozurovich

28                   333 South Hope Street

29                   Los Angeles, CA 90071

30                   Telephone: 213/680-8400

31                   213/680-8500 (fax)

32                   KIRKLAND & ELLIS LLP

33                   Mark R. Filip (admitted *pro hac vice*)

34                   300 North LaSalle

35                   Chicago, IL 60654

36                   Telephone: 312/861-2000

37                   312/862-2200 (fax)

38                   Attorneys for Defendant JAMES  
39                   HAGEDORN

1 Dated: August 20, 2018

2 ROBBINS GELLER RUDMAN  
& DOWD LLP

3 */s/ Jason A. Forge* \_\_\_\_\_

4 Jason A. Forge  
5 Rachel L. Jensen  
6 Michael Albert  
7 Rachel A. Cocalis  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

8 ROBBINS GELLER RUDMAN  
9 & DOWD LLP

10 Paul J. Geller  
120 East Palmetto Park Road, Suite 500  
11 Boca Raton, FL 33432  
Telephone: 561/750-3000  
561/750-3364 (fax)

12 DOWD & DOWD P.C.

13 Douglas P. Dowd  
14 Alex R. Lumaghi  
211 North Broadway, Suite 4050  
15 St. Louis, MO 63102  
Telephone: 314/621-2500  
314/621-2503 (fax)

16 THE DRISCOLL FIRM, P.C.

17 John J. Driscoll  
18 Christopher Quinn  
19 Gregory Pals  
20 Paul W. Johnson  
21 211 N. Broadway, Suite 4050  
St. Louis, MO 63102  
Telephone: 314/932-3232  
314/932-3233 (fax)

22 CLASS COUNSEL

## **SIGNATURE ATTESTATION**

I hereby attest that the content of this document is acceptable to all persons whose signatures are indicated by a “conformed” signature (/s/) within this e-filed document.

Dated: August 20, 2018

Jones Day

By: /s/ Edward Patrick Swan, Jr.  
Edward Patrick Swan, Jr.

Attorneys for Defendants THE  
SCOTTS MIRACLE-GRO  
COMPANY AND THE SCOTTS  
COMPANY LLC